

REMARKS

I. Status of the Claims

Applicants appealed the Examiner's rejection of claims 1-27 and 37-60 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,963,923 to Bennett (*"Bennett"*). In the Decision on Appeal, the Board of Patent Appeals ("Board") and Interferences affirmed the Examiner's rejection of claims 1-27 and 37-60.

By this Amendment, Applicants cancel claims 1-27 and 37-60 without prejudice or disclaimer of the subject matter thereof. As a result, the rejection of these claims is moot. By the above amendment, Applicants add new claims 70-73 for consideration in this application.

Applicants submit that the pending claims are allowable over the prior art of record for at least the following reasons.

II. Claims 70-73 Are Allowable Over *Bennett*

Applicants respectfully traverse the rejection of claims 1-27 and 37-60 under 35 U.S.C. § 102(b) as being anticipated by *Bennett*. The rejection have been rendered moot by the cancellation of claims 1-27 and 37-60. Applicants submit that claims 70-73 are allowable over *Bennett* for at least the following reasons.

In order to support a rejection under 35 U.S.C. § 102, each and every element as set forth in the claims must be found, either expressly or inherently described, in a single prior art reference. M.P.E.P. § 2131. Here, *Bennett* fails to teach each and every element of Applicants' claims.

For example, new independent claim 70 recites "transmitting, from a client to a host, **a request data frame** for a data transfer session, **the frame including a transfer**

type and a plurality of segments that each identify one of the data objects to be transferred[.]” (Emphases added.) As discussed in the Appeal Brief of February 12, 2012, and the Reply Brief of June 29, 2010, *Bennett*’s initial request does not contain information regarding the file components to be transferred. See Appeal Brief, pp. 11-13; Reply Brief, pp. 2-3. Moreover, nowhere does *Bennett* teach or suggest a request frame including transfer type and a plurality of segments that identify data objects, as set forth in claim 70.

Further, new independent claim 70 recites “receiving a **transfer data frame including at least one identifier and at least a portion of a corresponding data object, wherein the identifier is (a) used by the host to store** the portion of the data object in a storage device when the transfer data frame is received at the host, or **(b) used by the client to identify a transfer session** corresponding to the portion of the data object when the transfer data frame is received at the client.” (Emphases added.) *Bennett* fails to disclose or even suggest a transfer data frame that includes at least one identifier and at least a portion of a corresponding data object, as recited in claim 70.

For at least the above reasons, independent claim 70 should be allowed. Moreover, dependent claims 71-73 should be allowed in view of their dependency on claim 70 and further in view of the additional distinguishing features recited by these claims.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

The preceding remarks in favor of patentability are advanced without prejudice to other bases of patentability. Furthermore, the Board's Decision and the Final Office Action contain a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Board's Decision or the Final Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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